



DEPARTMENT OF THE NAVY
NAVAL FACILITIES ENGINEERING SYSTEMS COMMAND
BASE REALIGNMENT AND CLOSURE
PROGRAM MANAGEMENT OFFICE WEST
33000 NIXIE WAY, BLDG 50 Suite 207
SAN DIEGO, CA 92147

5000-110
Ser BPMOW.hmw/010
January 21, 2021

Mr. Mark Chalpin
Law Office of Mark G. Chalpin, Esq.
116 Billingsgate Lane
Gaithersburg, MD 20877

Dear Mr. Chalpin:

This correspondence is in regard to your Freedom of Information Act (FOIA) request of March 13, 2020.

Your request was received by this office on March 20, 2020 and assigned file number DON-NAVY-2020-005837. Please cite this number in any future communications with our office regarding this request.

This office informed you via correspondence dated March 27, 2020 that we were unable to provide a final determination and that the response would greatly exceed the original \$500 fee limit. On April 22, 2020, via email, you narrowed your request to remove items related to correspondence. This office provided you a fee estimate of \$11,000 for the remaining items to be processed. You appealed the cost estimate on July 29, 2020. The appeal was denied on August 17, 2020. In email correspondence, you further reduced the scope of this request to include the Redlined Draft Final HPNS Findings Report for Parcels B and G Soils including response to comments. On October 14, 2020, the request was perfected when you agreed to pay \$300. On December 7, 2020, this office provided you with a final determination.

A search for responsive records has been completed. Three documents, including their associated response to comments are responsive to your request. Two versions of the document and associated response to comments are withheld in full under FOIA Exemption 5 [5 U.S.C. § 552 (b)(5)] which exempts from disclosure inter-agency or intra-agency documents that are draft, deliberative in nature, or are attorney-client privileged. This Exemption protects pre-decisional deliberative information, the release of which would harm the government's decision-making process. Release of these draft documents could cause harm to the Navy's deliberations by discouraging the free and frank exchange of opinions or potentially result in public confusion by disclosing information that is not consistent with the outcome of the deliberative process. Although portions of the exempt records could be considered factual, such information is inextricably intertwined with deliberative material, or fragmented and uninformative, and has therefore been withheld from release. These draft reports are privileged and pre-decisional, as they are not in final form, marked draft, contain information that cannot be verified as accurate, or final, and contain comments and edits. These draft reports do not contain the final decision or response of the agency, and, as a result, release may cause confusion to the public.

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One version with associated responses to comments is released to you in full and closes out this FOIA.

As stated in an email dated October 14, 2020, you agreed to pay fees up to \$300. A total of 6.25 hours of review time was spent processing documents responsive to your request. Please remit payment in the amount of \$300 to the BRAC PMO West office within 30 days. Please make check out to "United States Treasury" and send to the address noted below.

NAVFAC BRAC PMO West
33000 Nixie Way
Bldg 50 Suite 207
Attn: Heather Wochnick
San Diego, CA 92147

You have the right to an appeal. It must be received (i.e., post-marked if by mail or submitted if by FOIAonline) within 90 calendar days from the date of this letter. Please provide the following in your appeal:

- a letter requesting an appeal that explains what you are appealing with any supporting arguments or reasons you think may be worthy of consideration;
- a copy of your initial request;
- a copy of the letter of denial.

There are two ways to file an appeal—through FOIAonline or by mail.

1. Through FOIAonline. This will work only if you set up an account on FOIAonline before you make the request that you would like to appeal. To set up an account, go to FOIAonline.gov, click "Create Account" (a link located within the blue banner at the top in the upper right corner), enter your data into the field that subsequently appears, and click "Save" (at the bottom left of the screen). With your account thereby created, you will be able to file an appeal on FOIAonline for any request you file on FOIAonline thereafter. To do so, locate your request (enter a keyword or the request tracking number in the "Search for" field on the "Search" tab), click on it, then the "Create Appeal" tab in the left-hand column. Complete the subsequent field, click "Save," and FOIAonline will submit your appeal.

2. By mail. Address your appeal to:

Department of the Navy
Office of the General Counsel
1000 Navy Pentagon, Room 5A532
Washington, DC 20350-1000

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Whichever method is used to file your appeal, please also provide a copy to us at meredith.richards@navy.mil, or:

NAVFAC BRAC PMO West
33000 Nixie Way
Bldg 50 Suite 207
Attn: Meredith Richards
San Diego, CA 92147

Please note that as a result of increases in the Health Protection Condition (HPCON) level, the BRAC PMO offices are limited to mission-essential personnel only and are maximizing the use of telework for other personnel. You are strongly encouraged to submit a copy of your appeal to BRAC PMO via email to ensure we receive timely notification that you have filed an appeal in accordance with the instructions above.

Any questions concerning this matter should be directed to Ms. Meredith Richards who may be contacted at meredith.richards@navy.mil or 619-524-1637.

Sincerely,

KIMBERLY A. OSTROWSKI
Director